

**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

CRC Communications LLC, d/b/a OTELCO,

Complainant,

v.

Massachusetts Electric Company d/b/a National  
Grid, and Verizon New England Inc.,

Respondents

D.T.C. 22-4

**MOTION FOR CONFIDENTIAL TREATMENT OF  
OTELCO'S CONFIDENTIAL ATTACHMENT 1 TO OTELCO'S REPLY**

1. CRC Communications LLC, d/b/a OTELCO ("OTELCO") respectfully requests that the Department of Telecommunications and Cable ("Department") grant confidential treatment to and exempt from public disclosure the following information submitted in the above-captioned proceeding, D.T.C. 22-4 on July 12, 2022:

- a) OTELCO's Confidential Attachment 1 to OTELCO's Reply to Responses of National Grid, Verizon and the DPU to OTELCO's Motion for Enforcement of Final Order in DTC 22-4.

Certain information contained in this document constitutes or contains proprietary, confidential, and/or competitively sensitive information that is entitled to confidential treatment and protection from public disclosure.

2. Pursuant to G. L. c. 25C, § 5, "the [D]epartment may protect from public disclosure trade secrets, confidential, competitively sensitive or other proprietary information provided in the course of proceedings conducted pursuant to this chapter."

Chapter 25C, section 5 establishes a three-part standard for determining whether, and to what extent, the Department may protect information from public disclosure. First, the information for which protection is sought must constitute “trade secrets, [or] confidential, competitively sensitive or other proprietary information.” *Id.* Second, the party seeking protection must rebut the statutory presumption that all such information is public information by proving the need for its non-disclosure. *Id.*; see also G.L. c. 66, § 10. Third, even where a party proves such need, the Department may protect only so much of that information as is necessary to meet the established need and may limit the term or length of time such protection will be in effect. See G.L. c. 25C, § 5; *Investig. by the Dep't of Telecomms. & Energy on its own Mot. Into the Appropriate Regulatory Plan to succeed Price Cap Regulation for Verizon New England, Inc. d/b/a Verizon Mass.' intrastate retail telecomms. servs. in the Commonw. of Mass.*, D.T.E. 01-31 Phase I, Interlocutory Order (Aug. 29, 2001) at 3 (citing G.L. c. 25, § 5D, the predecessor to G.L. c. 25C, § 5).

*Petition of CoxCom, LLC d/b/a Cox Communications New England to establish and adjust the equipment and installation rates for the Town of Holland*, D.T.C. 19-6, Hearing Officer Ruling at 2-3 (December 10, 2020).

“A trade secret may consist of any formula, pattern, device or compilation of information which is used in one's business, and which gives him an opportunity to obtain an advantage over competitors who do not know or use it.” *J.T. Healy and Son, Inc. v. James Murphy and Son, Inc.*, 357 Mass. 728, 736, 260 N.E.2d 723, 729 (1970) (quoting *Restatement of Torts*, § 757). A leading Massachusetts case cites “six factors of relevant inquiry” in determining trade secret status: (1) the extent to which the information is known outside of the business; (2) the extent to which it is known by employees and others involved in the business; (3) the extent of measures taken by the employer to guard the secrecy of the information; (4) the value of the information to the employer and its competitors; (5) the amount of effort or money expended by the employer in developing the information; and (6) the ease or difficulty with which the information could be properly

acquired or duplicated by others. *Jet Spray Cooler, Inc. v. Crampton*, 361 Mass. 835, 282 N.E.2d 921, 925 (1972).

3. The information and/or document that is the subject of this Motion is entitled to protection under these standards.

a. OTELECO's Confidential Attachment 1, which consists of O-Calc Pro Analysis Reports ("O-Calc Reports"), performed by National Grid's outside engineering firm, Osmose, in connection with National Grid's original surveys of the poles included in OTELECO's pole attachment applications contains information concerning OTELECO's current deployment plans, which OTELECO regards as confidential, proprietary, and competitively sensitive business operations information, the public disclosure of which could adversely affect OTELECO's business interests and operations and could cause OTELECO competitive harm. OTELECO has not made public details regarding OTELECO's deployment plan, and has protected this information as confidential and competitively sensitive. The provision of advanced broadband services is highly competitive. If such information were to be made public, OTELECO's competitors could take action to delay or block OTELECO's activities or utilize the information for other competitive advantages.

b. OTELECO's Confidential Attachment 1 also contains information pertaining to pole infrastructure that may be considered confidential, proprietary and competitively sensitive business operations information of Massachusetts Electric Company d/b/a National Grid and Verizon New England Inc. d/b/a Verizon Massachusetts (jointly "Pole Owners"), and other entities attached to their poles ("Third Party Attachers") the public disclosure of which could adversely affect the Pole Owners' and Third Party Attachers' business interests and operations and cause

them competitive harm. This information is not publicly available and, upon information and belief, such information is considered confidential and competitively sensitive and protected from disclosure.

4. In sum, the information and document described above is confidential, competitively sensitive, and proprietary; is not readily available to competitors; and would be of value to such competitors. There is no compelling need for public disclosure of any of this information.

WHEREFORE, OTELCO respectfully requests that the Department afford confidential treatment to the information and document described above, OTELCO's Confidential Attachment 1 to OTELCO's Reply to National Grid's, Verizon's and DPU's Responses to OTELCO's Motion for Enforcement of Final Order in DTC 22-4. and exclude it from the public record in this case.

April 18, 2022

Respectfully submitted,

/s/  
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### **Certification**

The undersigned is Chief Legal Counsel for Complainant CRC Communications LLC, d/b/a OTELCO. I certify to the best of my knowledge, information, and belief, that the information described in the foregoing Motion for Confidential Treatment is not customarily available in the public domain.

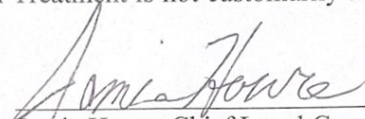
April 18, 2023

/s/  
\_\_\_\_\_  
Jamie Hoare, Chief Legal Counsel  
CRC Communications LLC, d/b/a OTELCO

**Certification**

The undersigned is Chief Legal Counsel for Complainant CRC Communications LLC, d/b/a OTELCO. I certify to the best of my knowledge, information, and belief, that the information described in the foregoing Motion for Confidential Treatment is not customarily available in the public domain.

April 18, 2023

  
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Jamie Hoare, Chief Legal Counsel  
CRC Communications LLC, d/b/a OTELCO